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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ELIYAHOU HARARI and SANJAY MEHROTRA
Junior Party
(Application 09/310,880)¹

v.

SHANE C. HOLLMER and LEE E. CLEVELAND
Senior Party
(Patent 5,828,601)²

Patent Interference No. 105,606
(Technology Center 2800)

Before: RICHARD E. SCHAFER, JAMESON LEE, and RICHARD TORCZON,
Administrative Patent Judges.

LEE, *Administrative Patent Judge.*

Judgment – Merits – Bd. R. 127

1 Filed May 14, 1999. The real party in interest is SanDisk Corporation.

2 Based on Application 08/160,582, filed December 1, 1993. The real party in interest is Spansion LLC.

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Hollmer's Substantive Motion 1 alleging unpatentability of all of Harari's claims corresponding to the count under 35 U.S.C. § 112, first paragraph, as lacking written description in the specification has been granted in a separate and concurrent paper. Because Harari provoked this interference, the granting of Holler's Substantive Motion 1 means Harari is without standing to continue in this interference. 37 C.F.R. § 41.201. Accordingly, it is now time appropriate to enter judgment against Harari.

It is

ORDERED that judgment as to Count 1 is entered against junior party ELIYAHOU HARARI and SANJAY MEHROTRA;

FURTHER ORDERED that junior party ELIYAHOU HARARI and SANJAY MEHROTRA is not entitled to its application claims 76-80 which correspond to Count 1;

FURTHER ORDERED that application claims 76-80 of junior party ELIYAHOU HARARI and SANJAY MEHROTRA are finally refused;

FURTHER ORDERED that the parties should note the requirements of 35 U.S.C. §135(c) and Bd.R. 205; and

FURTHER ORDERED that a copy of this judgment shall be entered into the file of Application 09/310,880 and Patent 5,828,601.

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By Electronic Transmission:

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